

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES

CHAPTER 24
DRINKING WATER AND WASTEWATER PROFESSIONALS LICENSING ACT

54-2401. SHORT TITLE -- DECLARATION OF POLICY. (1) This chapter shall be known and cited as the "Drinking Water and Wastewater Professionals Licensing Act."

(2) In order to protect the public health, safety and welfare, and safeguard the water and land resources of Idaho, the practice of drinking water operators, wastewater operators, and backflow assembly testers in this state is hereby declared to be subject to regulation in the public interest.

[54-2401, added 2004, ch. 335, sec. 1, p. 996.]

54-2402. LICENSE REQUIRED. It shall be unlawful for any person who is not licensed under the provisions of this chapter to operate, offer to operate, be in responsible charge of, or to otherwise serve as operating personnel at any public drinking water system or any public wastewater system as defined in the provisions of this chapter. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health. It shall be unlawful for any person to use, in connection with their name or otherwise assume or advertise, any title or description tending to convey the impression of being a water or wastewater system operator, unless such person has been duly registered and possesses a current license in good standing issued by the board or is otherwise exempted under the provisions of this chapter. Furthermore, it shall be unlawful for any person who is the designated responsible charge operator of a drinking water or wastewater system to not be licensed at a category class equal to or greater than the classification of the drinking water or wastewater system. It shall be unlawful for any person to perform backflow assembly testing or inspection unless such person is licensed under the provisions of this chapter. The right to practice as a drinking water operator, wastewater operator, or backflow assembly tester shall be deemed a personal right, based on the qualifications of the individual as evidenced by a current license, and shall not be transferable. Provided however, that persons licensed, registered or otherwise regulated by the state of Idaho to practice a profession shall not be required to obtain a license under this act in order to practice within the scope of practice of the profession for which they are licensed, registered or otherwise regulated.

[54-2402, added 2004, ch. 335, sec. 1, p. 996.]

54-2403. DEFINITIONS. As used in this chapter:

(1) "Backflow assembly tester" means a person who tests backflow prevention assemblies and who holds a current Idaho backflow assembly tester license.

(2) "Backflow prevention assembly" means a set of mechanical components, which prevents the undesired backflow of water or other liquids into a potable water system, and can be in-line tested and repaired.

(3) "Board" means the state board of drinking water and wastewater professionals as provided in section [54-2404](#), Idaho Code.

(4) "Certified" means the board has confirmed that an applicant has met all the requirements for licensure under this chapter and has approved the issuance of a license to practice in Idaho under the provisions of this chapter.

(5) "Collection system" means that portion of the wastewater system in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/liftstations and other appurtenances.

(6) "Distribution system" means that portion of the water utility in which water is stored and conveyed from the water treatment plant or other supply point to the premises of a consumer.

(7) "Division" means the division of occupational and professional licenses.

(8) "Drinking water operator" means any person who operates public drinking water systems, water treatment plants or other systems in order to treat water so that it is safe to drink and who holds a current Idaho water system operator license.

(9) "Laboratory analyst" means any person responsible for conducting laboratory analysis tasks in the laboratory of a wastewater system.

(10) "License" means a physical document issued by the division certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of this chapter.

(11) "Operator" or "operating personnel" means any person who is employed, retained, or appointed to conduct the tasks associated with the day to day operation and maintenance of a public drinking water system or a public wastewater system.

(12) "Public drinking water system or public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Every community and nontransient noncommunity water system, and each transient water system using a surface water source or ground water source directly influenced by surface water, shall be operated by a certified drinking water operator.

(13) "Public wastewater system or wastewater system" means those systems, including collection systems and treatment systems, that are owned by a city, county, state or federal unit of government, a nonprofit corporation, district, association, political subdivision or other public entity, or that generate or collect two thousand five hundred (2,500) or more gallons a day; or that have been constructed in whole or in part with public funds. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, nonmechanical septic tank and subsurface treatment and distribution system, or industrial wastewater systems under private ownership.

(14) "Responsible charge" means active, daily, on-site, or on call responsibility, for the performance of operations or active, ongoing, on-site

and on call direction of employees and assistants at a public drinking water system or a public wastewater system.

(15) "Responsible charge operator" means an operator of a public drinking water system, designated by the system owner, who holds a valid certificate at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system.

(16) "Wastewater operator" means a person who operates public wastewater systems, or public wastewater treatment plants or other systems, in order to remove harmful pollutants from domestic and industrial liquid waste so that it is safe to return to the environment, and who holds a current Idaho wastewater system operator license.

[54-2403, added 2004, ch. 335, sec. 1, p. 997; am. 2022, ch. 94, sec. 34, p. 305.]

54-2404. STATE BOARD ESTABLISHED -- MANNER OF APPOINTMENT -- QUALIFICATIONS -- TERMS OF OFFICE -- REMOVAL FROM OFFICE. (1) In order to safeguard the environment and protect the public health and establish the minimum competency requirements of persons whose duties are identified in this chapter, there is hereby established in the division of occupational and professional licenses a board of drinking water and wastewater professionals for drinking water and wastewater operators and backflow assembly testers, hereinafter called the board.

(2) The board shall consist of seven (7) members, two (2) of whom shall be drinking water system operators, two (2) of whom shall be wastewater system operators, and one (1) who shall be a backflow assembly tester, all of whom shall be citizens of the United States, residents of the state of Idaho and licensed under the provisions of this chapter, and one (1) who shall be lawfully entitled to reside in the United States and be a resident of the state of Idaho and a member of the public with an interest in the rights of consumers of water and wastewater services, and one (1) who shall be the director of the Idaho department of environmental quality or the director's designated agent.

(3) The governor shall appoint each member to the board for a term of three (3) years. Each member shall serve at the pleasure of the governor and shall serve until a successor is appointed. No member shall be appointed for more than two (2) successive terms or a total of two (2) terms during the life of the board or member.

[54-2404, added 2004, ch. 335, sec. 1, p. 998; am. 2016, ch. 340, sec. 29, p. 950; am. 2021, ch. 222, sec. 22, p. 637.]

54-2405. STATE BOARD PROCEDURES -- PAYMENT OF EXPENSES OF BOARD MEMBERS. (1) The members of the board shall, as soon as appointed, organize and at least annually thereafter elect from their number a chairman. The board shall hold at least two (2) meetings each year to transact such business as may be necessary to carry out the provisions of this chapter. Four (4) members of the board shall constitute a quorum and special meetings of the board shall be called by the chairman upon written request of any three (3) members; all meetings shall be open to the public.

(2) The members of the board shall be compensated as provided by section [59-509](#)(m), Idaho Code, subject to availability of funds collected under the provisions of this chapter.

[54-2405, added 2004, ch. 335, sec. 1, p. 999; am. 2010, ch. 157, sec. 1, p. 332.]

54-2406. POWERS AND DUTIES OF BOARD. (1) It shall be the duty of the board to carry out the provisions of this chapter, review applications, conduct written examinations, charge such fees as the board deems reasonable to cover the cost of licensing, keep records of its transactions, administer disciplinary actions, and record all matters which appropriately may come before it. The board shall have the power to adopt and amend rules including, but not limited to, a code of ethics and standards of conduct that may be reasonably necessary for the proper performance of its duties and the administration of this chapter and the regulation of proceedings before the board. The board shall, by written agreement, authorize the division of occupational and professional licenses as agent to act in its interest.

(2) The board may adopt license requirements for subcategories based on the size and type of system or for other related areas of expertise, such as backflow assembly testers for public drinking water systems.

[54-2406, added 2004, ch. 335, sec. 1, p. 999; am. 2022, ch. 94, sec. 35, p. 306.]

54-2407. FEES -- PAYMENT OF COSTS AND EXPENSES. (1) The division of occupational and professional licenses shall collect a fee not to exceed one hundred dollars (\$100) for each application, each administration of an examination, each original license, and each annual renewal of any license issued pursuant to this chapter and shall deposit all fees in the state treasury in accordance with section [67-2608](#), Idaho Code. The actual fees shall be set by board rule. The division shall also collect a fee not greater than that charged by the examination provider when an examination is required as a condition of licensure. All required fees shall not be prorated and are non-refundable.

(2) All fees received under the provisions of this chapter shall be paid to the division of occupational and professional licenses and deposited in the state treasury to the credit of the occupational licenses fund, and all costs and expenses incurred under the provisions of this chapter shall be charged against and paid from said fund.

[54-2407, added 2004, ch. 335, sec. 1, p. 999; am. 2013, ch. 180, sec. 1, p. 417; am. 2021, ch. 224, sec. 57, p. 681; am. 2022, ch. 94, sec. 36, p. 307.]

54-2408. LICENSES -- RECORDS. (1) The division of occupational and professional licenses shall, upon the approval of the board and subject to the provisions of this chapter, register and issue licenses to persons who have been approved by the board in accordance with this chapter. The licenses shall bear on their face the seal of the state and the signature of the division administrator of the division of occupational and professional licenses, and will be effective until the next birthday of the individual being certified. Licenses so issued shall be renewed annually in accordance with section [67-2614](#), Idaho Code. The provisions of sections [67-2609](#) through [67-2614](#), Idaho Code, shall apply to licenses issued pursuant to this chapter.

(2) The board shall keep and the division shall maintain a record of board proceedings and a register of all applications that show:

- (a) The name, age, social security number and residency of each applicant;
- (b) The date of application;
- (c) The place of business of such applicant;
- (d) The educational and other qualifications of each applicant;
- (e) Whether or not an examination was required;
- (f) Whether the applicant was rejected;
- (g) Whether a license was issued;
- (h) The dates of the action by the board;
- (i) Compliance with continuing education requirements; and
- (j) Such other information as may be deemed necessary by the board.

[54-2408, added 2004, ch. 335, sec. 1, p. 999; am. 2022, ch. 94, sec. 37, p. 307.]

54-2409. APPLICATION FORM -- LICENSE CATEGORIES -- QUALIFICATIONS FOR REGISTRATION AND LICENSE. (1) The board shall approve an application form for the use of applicants. Each applicant shall submit an original application to the board and provide information and documentation as the board may require including, but not limited to, information relating to the education and experience of the applicant. The board shall accept for review the complete application of any person whose application, accompanied by the necessary documentation and fees, is submitted. The board shall carefully evaluate each application, and shall approve the registration and issuance of a license to any applicant who has not been convicted, found guilty, or received a withheld judgment or suspended sentence in this state or in any other state of a crime deemed relevant in accordance with section [67-9411](#)(1), Idaho Code, and who has met the education, experience and examination requirements set forth in this chapter and the rules adopted pursuant to the provisions of this chapter. If the board finds upon the basis of evidence submitted, and in accordance with the provisions of this chapter, that the applicant does not meet the requirements, the application shall be denied and any fees submitted shall not be refunded.

(2) The board shall issue licenses in the following categories:

- (a) Drinking water distribution operator and drinking water treatment operator classes;
- (b) Wastewater treatment operator, wastewater collection system operator, and wastewater laboratory analyst classes;
- (c) Backflow assembly tester.

(3) Each applicant for licensure as a water system operator or wastewater system operator shall submit to the board a complete application with the required fee and provide documentation of having met the following requirements prior to being considered for a license:

- (a) Be a lawful resident of the United States;
- (b) Possess a high school diploma, GED, or the equivalent;
- (c) Document additional education as outlined by rule;
- (d) Document such experience as is required by rule;
- (e) Successful completion of and a passing grade on the required examination; and
- (f) Other such requirements as may be determined by board rule.

[54-2409, added 2004, ch. 335, sec. 1, p. 1000; am. 2022, ch. 246, sec. 22, p. 804.]

54-2410. ENDORSEMENT -- LICENSES FROM OTHER STATES. Any person who holds a valid license to practice as a drinking water system operator or a wastewater system operator or a backflow assembly tester from any other state in which the legally enacted qualifications for licensure are not lower than the qualifications for licensure set forth in this chapter and in the rules adopted pursuant hereto, may upon proper application and payment of a fee as may be established by board rule not to exceed one hundred dollars (\$100), and with the approval of the board, be accepted for licensure under the provisions of this chapter.

[54-2410, added 2004, ch. 335, sec. 1, p. 1001.]

54-2411. ANNUAL RENEWAL OF LICENSE. Every person licensed under the provisions of this chapter shall annually pay the prescribed renewal fee and certify compliance with continuing education requirements and provide such other information as the board may request. Any license canceled for failure to meet the renewal requirements may be reinstated according to section [67-2614](#), Idaho Code.

[54-2411, added 2004, ch. 335, sec. 1, p. 1001; am. 2005, ch. 87, sec. 1, p. 305; am. 2014, ch. 106, sec. 1, p. 313.]

54-2412. REVOCATION OR SUSPENSION OF LICENSE -- POWERS OF BOARD -- PROCEDURES FOR DISCIPLINARY PROCEEDINGS. (1) The board shall have the power to revoke, suspend, refuse to issue, refuse to renew, or otherwise limit any license or certificate issued pursuant to the provisions of this chapter for any of the following:

- (a) Procuring a license or registration by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for licensure or through any form of fraud or misrepresentation;
- (b) Being convicted of a felony;
- (c) Misrepresentation, or fraudulent representation in the performance of any duty, conduct or activity regulated under this chapter;
- (d) Violating the provisions of this chapter or any rules of the board or any code of conduct or ethical standards adopted by the board;
- (e) Being negligent or incompetent;
- (f) Failing to provide appropriate and personal supervision, if acting as the designated responsible charge operator, to any person gaining experience under the provisions of this chapter.

(2) The board shall have the power to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records and papers as it may desire, relevant to any hearing before it of any matter which it has authority to investigate, and for that purpose the board may issue a subpoena for any witness or a subpoena duces tecum to compel the production of books, records or papers, directed to the sheriff of any county of the state of Idaho where such witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case.

(3) The procedures for disciplinary proceedings shall be in compliance with the Idaho administrative procedure act and the rules of the office of the attorney general and the division of occupational and professional licenses.

[54-2412, added 2004, ch. 335, sec. 1, p. 1001; am. 2022, ch. 94, sec. 38, p. 307.]

54-2413. VIOLATIONS AND PENALTIES. Any person who shall practice or attempt to offer to practice as a drinking water operator or wastewater operator or backflow assembly tester, as defined in this chapter, without having at the time of so doing a current, unexpired, unrevoked, and unsuspended license issued under this chapter shall be deemed guilty of a misdemeanor and, for each violation, shall be subject to punishment by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for a period of not more than six (6) months, or both.

[54-2413, added 2004, ch. 335, sec. 1, p. 1001.]

54-2414. DUTY OF PROSECUTING ATTORNEY -- DUTY OF ATTORNEY GENERAL. It shall be the duty of the prosecuting attorney of each county to prosecute all violations of this chapter constituting a violation of criminal law and it shall be the duty of the attorney general of the state of Idaho to prosecute any administrative actions brought under the provisions of this chapter as requested by the board.

[54-2414, added 2004, ch. 335, sec. 1, p. 1002.]